



Norman H. Bangerter
Governor

Dee C. Hansen
Executive Director

Dianne R. Nielson, Ph.D.
Division Director

State of Utah

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

355 West North Temple
3 Triad Center, Suite 350
Salt Lake City, Utah 84180-1203
801-538-5340

January 15, 1992

CERTIFIED RETURN RECEIPT REQUESTED
P 074 979 179

Mr. Allen Childs
Genwal Coal Company
P.O. Box 1201
195 North 1st West
Huntington, Utah 84528

Dear Mr. Childs:

Re: Finalized Assessment for State Violation #N91-37-3-1, Genwal Coal Company,
Crandall Canyon Mine, ACT/015/032, Folder #5, Emery County, Utah

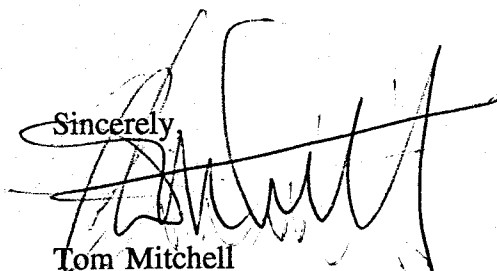
The civil penalty for the above-referenced violation has been finalized. This assessment has been finalized as a result of a review of all pertinent data and facts including those presented in the assessment conference by you or your representative and the Division of Oil, Gas and Mining inspector.

Within fifteen (15) days of your receipt of this letter, you or your agent may make a written appeal to the Board of Oil, Gas and Mining. To do so, you must escrow the assessed civil penalty with the Division within a maximum of thirty (30) days of receipt of this letter, but in all cases prior to the Board Hearing. Failure to comply with this requirement will result in a waiver of your right of further recourse.

If no timely appeal is made, this assessed civil penalty must be tendered within thirty (30) days of your receipt of this letter. Please remit payment to the Division, mail c/o Vicki Bailey at the address listed above.

Thank you for your cooperation.

Sincerely,



Tom Mitchell
Assessment Conference Officer

jbe

Enclosure

cc: Bernie Freeman, OSM, AFO

an equal opportunity employer

WORKSHEET FOR FINAL ASSESSMENT OF PENALTIES
UTAH DIVISION OF OIL, GAS AND MINING

COMPANY/MINE Genwal Coal Co/Crandall Canyon Mine

NOV #N91-37-3-1

PERMIT # ACT/015/032

VIOLATION 1 of 1

Assessment Date 01/14/92

Assessment Officer Tom Mitchell

Nature of

Violation: Failure to comply with the performance standard outlined in R614-301-723, to sample in accordance with Standard Methods of the Examination of Water and Wastewater, especially with regard to pH sampling/monitoring (July 91).

Date of Termination: 11/11/91

	<u>Proposed Assessment</u>	<u>Final Assessment</u>
(1) History/Previous Violations	<u>1</u>	<u>1</u>
(2) Seriousness		
(a) Probability of Occurrence	<u> </u>	<u> </u>
Extent of Damage	<u> </u>	<u> </u>
(b) Hindrance to Enforcement	<u>12</u>	<u>12</u>
(3) Negligence	<u>16</u>	<u>16</u>
(4) Good Faith	<u>-0</u>	<u>-10</u>
Total Points	<u>29</u>	<u>19</u>
TOTAL ASSESSED FINE		<u>\$ 190</u>

NARRATIVE:

(Brief explanation for any changes made in assignment of points and any additional information that was available after the proposed assessment.)

The operator exercised diligence in abating the violation.



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January 2, 1992

CERTIFIED RETURN RECEIPT
P 074 979 176

Mr. Allen Childs
Genwal Coal Company
195 North 1st West
P.O. Box 1201
Huntington, Utah 84528

Dear Mr. Childs:

Re: Proposed Assessment for State Violation No. N91-13-1-1, Genwal Coal Company, Crandall Canyon Mine, ACT/015/032, Folder #5, Emery County, Utah

The undersigned has been appointed by the Board of Oil, Gas and Mining as the Assessment Officer for assessing penalties under R614-401.

Enclosed is the proposed civil penalty assessment for the above-referenced violation. The violation was issued by Division Inspector, J. Randall Harden on November 22, 1991. Rule R614-401-600 et. sec. has been utilized to formulate the proposed penalty. By these rules, any written information which was submitted by you or your agent, within fifteen (15) days of receipt of the Notice of Violation, has been considered in determining the facts surrounding the violation and the amount of penalty.

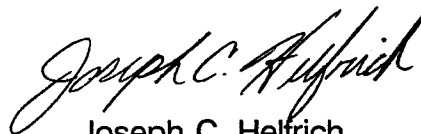
Under R614-401-700, there are two informal appeal options available to you:

1. If you wish to informally appeal the fact of this violation, you should file a written request for an Informal Conference within 30 days of receipt of this letter. This conference will be conducted by the Division Director. This Informal Conference is distinct from the Assessment Conference regarding the proposed penalty.

2. If you wish to review the proposed penalty assessment, you should file a written request for an Assessment Conference within 30 days of receipt of this letter. If you are also requesting a review of the fact of violation, as noted in paragraph 1, the Assessment Conference will be scheduled immediately following that review.

If a timely request for review is not made, the fact of violation will stand, the proposed penalty(ies) will become final, and the penalty(ies) will be due and payable within thirty (30) days of the proposed assessment. Please remit payment to the Division, mail c/o Vicki Bailey.

Sincerely,



Joseph C. Helfrich
Assessment Officer

jbe

Enclosure

cc: Bernie Freeman, OSM

**WORKSHEET FOR ASSESSMENT OF PENALTIES
UTAH DIVISION OF OIL, GAS AND MINING**

COMPANY/MINE Genwal Coal Company/Crandall Canyon NOV #N91-13-1-1PERMIT # ACT/015/032 VIOLATION 1 OF 1ASSESSMENT DATE 01/02/92 ASSESSMENT OFFICER Joseph C. Helfrich**I. HISTORY MAX 25 PTS**

- A. Are there previous violations which are not pending or vacated, which fall within 1 year of today's date?

ASSESSMENT DATE 01/02/92 EFFECTIVE ONE YEAR TO DATE 01/02/91

PREVIOUS VIOLATIONS	EFFECTIVE DATE	POINTS
<u>N91-37-2-1</u>	<u>08/18/91</u>	<u>1</u>

1 point for each past violation, up to one year;
5 points for each past violation in a CO, up to one year;
No pending notices shall be counted.

TOTAL HISTORY POINTS 1**II. SERIOUSNESS (either A or B)**

NOTE: For assignment of points in Parts II and III, the following applies. Based on the facts supplied by the inspector, the Assessment Officer will determine within which category, the Assessment Officer will adjust the points up or down, utilizing the inspector's and operator's statements as guiding documents.

Is this an Event (A) or Hindrance (B) violation? Event**A. Event Violations Max 45 PTS**

1. What is the event which the violated standard was designed to prevent?
Conducting activities without appropriate approvals.
2. What is the probability of the occurrence of the event which a violated standard was designed to prevent? Occurred

... PROBABILITY	RANGE
... None	0
... Unlikely	1-9
... Likely	10-19
... Occurred	20

ASSIGN PROBABILITY OF OCCURRENCE POINTS 20

PROVIDE AN EXPLANATION OF POINTS

See attached inspector's statement.

3. What is the extent of actual or potential damage?

RANGE 0 - 25*

*In assigning points, consider the duration and extent of said damage or impact, in terms of area and impact on the public or environment.

ASSIGN DAMAGE POINTS 5

PROVIDE AN EXPLANATION OF POINTS

Minimal. See attached inspector's statement.

B. Hindrance Violations MAX 25 PTS

1. Is this a potential or actual hindrance to enforcement? _____

RANGE 0 - 25

Assign points based on the extent to which enforcement is actually or potentially hindered by the violation.

ASSIGN HINDRANCE POINTS _____

PROVIDE AN EXPLANATION OF POINTS

TOTAL SERIOUSNESS POINTS (A or B) 25

III. NEGLIGENCE MAX 30 PTS

- A. Was this an inadvertent violation which was unavoidable by the exercise of reasonable care? **IF SO - NO NEGLIGENCE;**
 OR Was this a failure of a permittee to prevent the occurrence of a violation due to indifference, lack of diligence, or lack of reasonable care, or the failure to abate any violation due to the same? **IF SO - NEGLIGENCE;**
 OR Was this violation the result of reckless, knowing, or intentional conduct? **IF SO - GREATER DEGREE OF FAULT THAN NEGLIGENCE.**

... No Negligence	0
... Negligence	1-15
... Greater Degree of Fault	16-30

STATE DEGREE OF NEGLIGENCE Reckless

ASSIGN NEGLIGENCE POINTS 15

PROVIDE AN EXPLANATION OF POINTS

See attached inspector's statement.

IV. GOOD FAITH MAX 20 PTS. (EITHER A or B) (Does not apply to violations requiring no abatement measures.)

- A. Did the operator have onsite the resources necessary to achieve compliance of the violated standard within the permit area?

... **IF SO - EASY ABATEMENT**

Easy Abatement Situation

... **Immediate Compliance** -11 to -20*

... Immediately following the issuance of the NOV)

... **Rapid Compliance** -1 to -10*

... (Permittee used diligence to abate the violation)

... **Normal Compliance** 0

(Operator complied within the abatement period required)

(Operator complied with conditions and/or terms of approved Mining and Reclamation Plan)

* Assign in upper or lower half of range depending on abatement occurring in 1st or 2nd half of abatement period.

- B. Did the permittee not have the resources at hand to achieve compliance OR does the situation require the submission of plans prior to physical activity to achieve compliance?

... IF SO - DIFFICULT ABATEMENT

Difficult Abatement Situation

- ... **Rapid Compliance** -11 to -20*
(Permittee used diligence to abate the violation)
- ... **Normal Compliance** -1 to -10*
(Operator complied within the abatement period required)
- ... **Extended Compliance** 0
(Permittee took minimal actions for abatement to stay within the limits of the NOV or the violated standard, or the plan submitted for abatement was incomplete)
(Permittee complied with conditions and/or terms of approved Mining and Reclamation Plan)

EASY OR DIFFICULT ABATEMENT? _____

ASSIGN GOOD FAITH POINTS 0

PROVIDE AN EXPLANATION OF POINTS

Information required to abate the violation was received on the abatement date, December 20, 1991.

V. ASSESSMENT SUMMARY FOR N91-13-1-1

I.	TOTAL HISTORY POINTS	<u>1</u>
II.	TOTAL SERIOUSNESS POINTS	<u>25</u>
III.	TOTAL NEGLIGENCE POINTS	<u>15</u>
IV.	TOTAL GOOD FAITH POINTS	<u>0</u>
	TOTAL ASSESSED POINTS	<u>41</u>
	TOTAL ASSESSED FINE	<u>\$ 640.00</u>

jbe

COMPANY/MINE Genwal Coal Company, Crandall Cyn. NOV/CO # N91-13-1-1
PERMIT # ACT/015/032 VIOLATION # 1 OF 1

EVENT VIOLATIONS INSPECTORS STATEMENT

A. SERIOUSNESS

1. What harmful event was this regulation designed to prevent? Refer to the DOGM reference list of events below and remember that the event is not the same as the violation. Check and explain each event.

- ☐ a. Activity outside the approved permit area.
- ☐ b. Injury to the public (public safety)
- ☐ c. Damage to property.
- ☒ d. Conducting activities without appropriate approvals.
- ☐ e. Environmental harm.
- ☐ f. Water Pollution.
- ☐ g. Loss of reclamation / revegetation potential.
- ☐ h. Reduced establishment of a permanent, diverse and effective vegetative cover.
- ☒ i. Other (Explain)

The operator's intention was to conduct second mining within a buffer zone without prior approval by the Division. Mining operations were not in accordance with Stipulation R614-301-525 DWD, which states that only development of main entries with no second mining, along the boundaries between the State Leases and the Forest Service lands.

2. Has the event occurred? Yes X No

If yes, describe it. If no, what would cause it to occur and how likely is that it would happen.

The operator has developed a mine panel within the buffer zone between the State lease and the Forest Service boundary and intends on conducting second mining of that panel upon completion of advance mining sometime near the end of December, 1991. These intentions were presented to the Division on November 19, 1991, when a proposal to change the angle of draw to 21 degrees and to conduct retreat mining within this buffer zone was submitted in a meeting at the Division's office. This panel was developed without prior approval by the Division. These mining operations are not in accordance with Stipulation R614-301-525 DWD which states that only development of main entries with no second mining, along the boundaries between the State leases and the Forest Service lands. This development of panel entries and not main entries within the buffer zone area is clearly in conflict with this stipulation.

EVENT VIOLATIONS INSPECTORS STATEMENT

(Continued)

3. Would and/or does damage extend off the disturbed and/or permit area?

DISTURBED AREA

PERMIT AREA

Would: Yes ☐ No ☐ Would: Yes ☒ No ☐
Does: Yes ☐ No ☐ Does: Yes ☐ No ☐

4. Describe the duration and extent of the damage or impact. How much damage may have occurred if the violation had not been discovered by a DOGM inspector? Describe this potential damage and whether or not damage would extend off the disturbed and/or permit area.

Based on the designs contained within the currently approved mining and reclamation plan for this lease area, the impacts from subsidence could be expected to project outward from this panel at an angle of draw of 30 degrees. This would indicate that subsidence may occur outside of the permit area, in some cases, to a maximum extent of 1,100 feet outside of the current mine permit area. However, due to the amount of overburden and the conservative angle of draw, it is expected that the affects of this subsidence would be minimal and that although the area would be affected by subsidence, that minimal or no damage would actually occur as a result of that subsidence.

Potential damage off the disturbed area. Yes ☐ No ☐

Potential damage off the permit area. Yes ☒ No ☐

B. DEGREE OF FAULT (Only one question applies to each violation, check and discuss.)

☐ No Negligence

If you think this violation was not the fault of the operator (due to vandalism or an act of God), explain. Remember the permittee is considered responsible for actions of all persons working on the mine site.

☐ Ordinary Negligence

If you think this violation was the result of not knowing about DOGM regulations, indifference to DOGM regulations or the lack of diligence or reasonable care.

EVENT VIOLATIONS INSPECTORS STATEMENT

(Continued)

Explain.

☒ Recklessness:

If the actual or potential environmental harm or harm to the public should have been evident to an operator, describe the situation and what if anything, the operator did to correct it prior to being cited.

On November 19, 1991, the operator brought to the Division, a proposal to conduct second mining within the buffer zone area. the operator is currently in the advance mining stage of development of this mine panel and has requested that pillars be pulled in this area to maximize recovery on the State lease. This proposed change to the mining and reclamation plan is currently under review but has not been approved by the Division.

☐ Knowing and Willful Conduct

Was the operator in violation of a specific permit condition? Did the operator receive prior warning of noncompliance by State or Federal inspectors concerning this violation? Has DOGM or OSM cited the violation in the past? If so, give the dates and the type of warning or enforcement action taken.

C. GOOD FAITH

1. In order to receive good faith for compliance with an NOV or CO the violation must have been abated before the abatement deadline. If you think this applies, describe how rapid compliance was achieved (give dates) and describe the measures the operator took to comply as rapidly as possible.

The operator has submitted a proposal to change their mining and reclamation plan to accommodate second mining within the buffer zone area, which incidently resulted in the discovery of this violation. Based on discussions with the operator regarding the content of this submittal, additional information will be required in order to comply with the conditions of this violation.

EVENT VIOLATIONS INSPECTORS STATEMENT

(Continued)

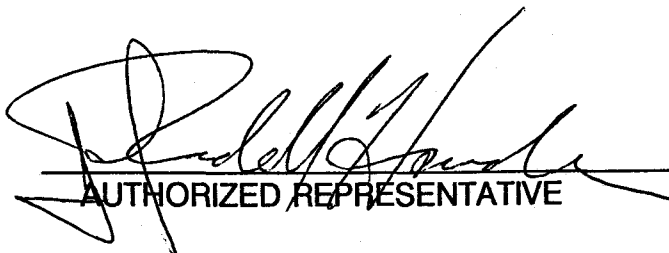
2. Explain whether or not the operator had the necessary resources on site to achieve compliance.

The resources required to achieve compliance with this violation are available to the operator. However, the operator had failed to prudently revise and amend the approved mining and reclamation plan by obtaining the necessary approvals and permits to conduct these mining activities prior to their commencement.

3. Was the submission of plans prior to physical activity required by this NOV?
Yes X No If yes, explain.

Changes in the method, sequence and timing of underground mining operations must be submitted and approved by the Division prior to conducting such mining activities.

11-21-91
DATE

 #13
AUTHORIZED REPRESENTATIVE